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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,406	10/23/2006	Marco Di Meco	8776-003	8727
20575 7590 02/17/2009 MARGER JOHNSON & MCCOLLOM, P.C. 210 SW MORRISON STREET, SUITE 400 PORTLAND, OR 97204				
EXAMINER				
ALTUN, NURI B				
ART UNIT		PAPER NUMBER		
3657				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/595,406

**Applicant(s)**

DI MECO ET AL.

**Examiner**

NURI ALTUN

**Art Unit**

3657

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

Amendment received on 11/25/2008 has been acknowledged. Claims 1, 3, 4 and 8 have been amended.

#### ***Claim Rejections - 35 USC § 112***

Rejection under 35 USC 112 has been overcome.

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Meco et al. (US# 2002/0015825)**, in view of **Osako et al. (EP 1,052,425)**.

**As per claim 1**, Meco et al. teach a toothed belt (1),  
comprising a body (2) and a plurality of teeth (4);  
said teeth being coated with a fabric (5);  
said fabric (5) being coated on the outside with a resistant layer (8);  
said resistant layer (8) comprising a fluorinated plastomer, an elastomeric material (see paragraph 0028) and a vulcanizing agent (see paragraph 0032);  
said fluorinated plastomer being present in said resistant layer (8) in an amount by weight greater than that of said elastomeric material (see paragraph 0028, lines 5-7);  
and resistant layer (8) is made to adhere directly to said fabric.

However Meco et al. doesn't explicitly disclose said fluorinated plastomer is formed for more than 50% by particles of average size smaller than 10 micrometers.

Osako et al. teach a power transmission belt and method of manufacturing the power transmission belt with the concept of having fluorinated plastomer is formed by particles of average size smaller than 10 micrometers (see paragraphs 0062 and 0063),

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the resistant layer of Meco et al. to include plastomer particle configuration taught by Osako et al. in order to improve dispersion of the materials, thereby ensuring a consistent product and performance (See paragraph 0063 of Osako et al.)

**As per claim 2**, Meco et al. teach said fluorinated plastomer is polytetrafluoroethylene (paragraph 0033, lines 1-4).

**As per claim 3**, Meco et al. teach said elastomeric material comprises HNBR (paragraph 0033, lines 4-5).

**As per claim 4**, Meco et al. teach said elastomeric material comprises HNBR modified with a zinc salt of polymethacrylic acid (paragraph 0033, lines 5-8).

**As per claim 5**, Meco et al. teach said resistant layer (8) comprises said fluorinated plastomer in an amount by weight of between 101 and 150 parts by weight with respect to said elastomeric material (see paragraph 0031).

**As per claim 7**, Meco et al. and Osako et al. teach all the structural elements of the claimed invention, as mentioned in claim 1. Meco et al. further lack said resistant layer being applied directly on said fabric via spreading.

Osako et al. teach said resistant layer is applied directly on said fabric via spreading (see paragraph 0025).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the belt of Mecco et al. to include the layer application taught by Osako et al. in order to provide uniform structure.

**As per claim 8**, Mecco et al. teach a process for fabrication of a toothed belt (1), comprising:

- forming an elongate belt body (2) of an elastomeric material, the belt having a first, planar side and a second side opposite the first side (see Fig. 1);

- forming teeth (4) along the second side;

- coating the teeth with a fabric (5) (paragraph 0018, lines 1-2);

- coating the fabric with a resistant layer (8) comprising a fluorinated elastomer, and elastomeric material (see paragraph 0028) and a vulcanizing agent (see paragraph 0032),

- the fluorinated elastomer being present in the resistant layer (8) in an amount greater than an amount of the elastomeric material (see paragraph 0028, lines 5-7) and directly adhering the resistant layer (8) to the fabric coated over the teeth.

However Mecco et al. doesn't explicitly disclose the fluorinated elastomer comprising for more than 50% particles of an average size less than 10 micrometers.

Osako et al. teach the fluorinated elastomer particles of an average size less than 10 micrometers (see paragraphs 0062 and 0063);

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the resistant layer of Meco et al. to include plastomer particle configuration taught by Osako et al. in order to decrease level of noise.

Osako et al. don't explicitly disclose the particles are more than 50%, but based on the teachings of Osako et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify more than 50% of the particles to have average size smaller than 10 micrometers in order to improve dispersion of the materials.

Also, *MPEP 2144.05 II A* states that it is not inventive to discover the optimum or workable ranges by routine experimentation.

**As per claim 9**, Meco et al. and Osako et al. teach all the structural elements of the claimed invention, as mentioned in claim 8. Meco et al. further lack said resistant layer being applied directly to the fabric via spreading.

Osako et al. teach said resistant layer is applied directly to the fabric via spreading (see paragraph 0025).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the belt of Meco et al. to include the layer application taught by Osako et al. in order to provide uniform structure.

**As per claim 10**, Meco et al. teach forming the elongate belt body includes embedding a plurality of longitudinal filiform resistant inserts or cords in the elastomeric material (paragraph 0017, lines 2-4).

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Meco et al. (US# 2002/0015825)**, in view of **Osako et al. (EP 1,052,425)**, as applied to claim 5 above, further in view of **Di Meco et al. (EP 1,157,813)**.

Meco et al. and Osako et al. combination teaches all the structural elements of the claimed invention, as applied to claim 5 above, but doesn't explicitly disclose said resistant layer having a weight of between 50 and 80 grams per meter square.

Di Meco et al. teach a toothed belt having the concept of resistant layer having a weight of between 50 and 80 grams per meter square (see Table 1; mean density of 350-400 g/l with the specified thickness corresponds to weight of 80 grams per meter square which falls in the claimed range).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Meco et al. and Osako et al. to include the resistant layer weight taught by Di Meco et al. in order to provide optimal strength, weight and wear characteristics to the belt.

#### ***Response to Arguments***

Applicant's arguments filed 11/25/2008 have been fully considered but they are not persuasive.

Applicants first argue, "a liquid treatment of Osako et al. cannot form a layer, and also cannot form a layer outside of a fabric, as recited by claim 1." The Examiner notes that Osako et al. reference is not relied on for the existence of the layer or the position of the layer. Osako et al. reference is the teaching reference and is relied on for

teaching the particle size of fluorinated plastomer. Meco et al. reference teaches the resistant layer (8) as recited in paragraph 0028.

Applicants next argue, "vulcanizing agent as recited in claim 1 cannot be found in Osako." The Examiner notes that Osako et al. reference is not relied on for vulcanizing agent. Meco et al. reference teaches the vulcanizing agent as recited in paragraph 0032.

Applicants next argue, "Claim 1 is inventive over Di Meco et al." The examiner respectfully notes that, Di Meco et al. are relied on for teaching resistant layer weight, as described in claim 6

Applicants next argue, "a person skilled in the art would have no reason to consider Osako et al., which describes liquid composition, to combine with Di Meco et al." The examiner repeats the rationale provided, that optimal strength, weight and wear characteristics should be provided to the belt; therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the resistant layer weight taught by Di Meco et al.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The reference Mori et al. 5861212 teach an adhesive composition and composite of rubber with fiber having similar features.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP



§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NURI ALTUN whose telephone number is (571)270-5807. The examiner can normally be reached on Mon-Fri 7:30 - 5:00 with first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on (571) 272 7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bradley T King/  
Primary Examiner, Art Unit 3657

NBA